TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1906.

No. 120.

CHARLES ZARTARIAN, APPELLANT,

vs.

GEORGE B. BILLINGS, UNITED STATES COMMISSIONER OF IMMIGRATION AT THE PORT OF BOSTON.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MASSACHUSETTS.

FILED SEPTEMBER 29, 1905.

(19,914.)

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JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., AUGUST 25, 1906.

1 *Transcript of Record of Circuit Court.*

UNITED STATES OF AMERICA, *District of Massachusetts:*

At the Circuit Court of the United States for the First Circuit, begun and holden at Boston, within and for the District of Massachusetts, on the last Tuesday of February, being the twenty eighth day of February, in the year of our Lord one thousand nine hundred and five before the Honorable William L. Putnam, Circuit Judge.

No. 1562, Law Docket.

Charles Zartarian, Petitioner for Writ of Habeas Corpus.

The Petition for a Writ of *Habeas Corpus* in this cause is filed in the clerk's office on the twenty first day of April, A. D. 1905, and is in the words and figures following:

2 *Petition.*

(Filed April 21, 1905.)

UNITED STATES OF AMERICA:

Circuit Court of the United States, District of Massachusetts.

In the Matter of the Petition of CHARLES ZARTARIAN, in Behalf of MARIAM ZARTARIAN, for a Writ of *Habeas Corpus* and a Writ of Certiorari.

To the Honorable Francis C. Lowell, Judge of the Circuit Court of the United States within and for the District of Massachusetts:

Respectfully represents your petitioner, Charles Zartarian, of Boston, in the County of Suffolk and Commonwealth of Massachusetts, that he was born in Harput, Asiatic Turkey, that he became a naturalized citizen of the United States on September 12th, 1896, at the Circuit Court of Cook County, in the State of Illinois, that the certificate of naturalization then issued to him is hereto annexed (marked "A"), that in the latter part of the year 1904, the Turkish Government, at the request of the United States Minister at Constantinople, granted permission to the wife of your petitioner, to his son, and to his daughter, Mariam Zartarian, fifteen years of age, to emigrate to the United States, that on March 22nd, 1905, the Honorable G. V. L. Meyer, then United States Ambassador at Rome, Italy, issued to your petitioner's wife and to his minor daughter, the said Mariam, the passport which is annexed hereto (marked "B"), that said Mariam arrived at the port of Boston from Naples, Italy, on the steamship Romanic of the White Star line, on
3 April 18th, 1905, that on April 19th, 1905, a board of special inquiry appointed by George B. Billings, United States Com-

missioner of Immigration at the port of Boston, under color of authority of an act of Congress of March 3rd, 1903, relative to the immigration of aliens into the United States, voted, one member of said board dissenting, to debar said Mariam from entering the United States on the ground that she had a dangerous contagious disease, to wit, trachoma, a disease of the mucous covering of the eyelids.

Your petitioner says that his said daughter, Mariam Zartarian, is unlawfully imprisoned, detained, confined and restrained of her liberty at said Boston by said George B. Billings, and that she is now in the custody of said George B. Billings.

Your petitioner says that said imprisonment, detention, confinement and restraint are contrary to the Constitution and laws of the United States, and especially contrary to Article V. of the Amendments to the Constitution of the United States, and to Section 2172 of the Revised Statutes of the United States, in that said Mariam is to be considered a citizen of the United States by virtue of the citizenship of your petitioner, and in that said imprisonment, detention and restraint of liberty are without due process of law.

Wherefore your petitioner prays for a writ of *habeas corpus* to said George B. Billings, and also for a writ of certiorari to bring up the record of the board of special inquiry which voted to debar said Mariam Zartarian from entering the United States.

CHARLES ZARTARIAN.

COMMONWEALTH OF MASSACHUSETTS, *Suffolk, ss:*

BOSTON, *April 21st,* 1905.

Then personally appeared the above named Charles Zartarian and made oath that the facts set forth herein are true to the best of his knowledge and belief, before me,

[SEAL.] JOHN W. RORKE,
Notary Public.

"A."

UNITED STATES OF AMERICA.

STATE OF ILLINOIS, *County of Cook, ss:*

Be it remembered, That on the twelfth day of September, in the year of our Lord one thousand eight hundred and ninety six in the Circuit Court of Cook County, in the State of Illinois, (the same being a Court of Record, having a Clerk and Seal), and of the August term thereof, for the year aforesaid, Charles Zartarian, an alien, came into Court and applied to be admitted as a Naturalized Citizen of the United States, and it having appeared to the satisfaction of the Court that the said applicant has resided within the limits and under the jurisdiction of the United States for and during

the full term of five years last past, and one year and upward immediately preceding the date hereof, in the State of Illinois, and that during said term of five years he has sustained a good moral character, and appeared to be attached to the principles contained in the Constitution of the United States, and well disposed to the good
5 order, well being and happiness of the same; and two years and upward having elapsed since the said applicant filed the declaration of his intention to become a citizen of the United States, according to the provisions of the several acts of Congress heretofore passed on that subject; and he having now here, in open Court, taken and subscribed the oath required by those laws to support the Constitution of the United States, and to renounce and abjure all allegiance and fidelity to every foreign prince, potentate, state or sovereignty whatever, and more particularly all allegiance which he may in anywise owe to the Sultan of Turkey, of whom he was heretofore a subject.

It was therefore ordered and adjudged by the Court, that the said Charles Zartarian be and he was thereby admitted to all and singular the rights, privileges and immunities of a Naturalized Citizen of the United States, and that it be certified to him accordingly, which is done by these presents.

Witness, Frank J. Gaulter, Clerk of said Circuit Court of Cook County, and the Seal thereof, at Chicago, in said Cook County, this twelfth day of September, A. D. 1895.

[SEAL.] FRANK J. GAULTER, *Clerk.*

6 "B."

Good only for two years from date.

Embassy of the United States of America at Rome, Italy.

To all to whom these presents shall come, Greeting:

I, the undersigned, Ambassador Extraordinary and Plenipotentiary of the United States of America, hereby request all whom it may concern to permit Halmas Zartarian a citizen of the United States, accompanied by one minor child: Mariam safely and freely to pass, and in case of need to give them all lawful Aid and Protection.

Description:
Age 35 Years
Stature 5 Feet 1½ inches Eng.
Forehead low
Eyes brown
Nose medium
Mouth medium
Chin round
Hair dark brown
Complexion dark
Face round.
Signature of the Bearer: Illiterate.

[SEAL.] Given under my hand and the Seal of the Embassy of the United States at Rome, Italy, the 22 day of March in the year 1905, and of the Independence of the United States the one hundred and twenty ninth.

G. V. L. MEYER.

No. 3825.

7 Upon the filing of said petition, a summons to show cause why said petition should not be granted is issued, returnable on the twenty second day of April, A. D. 1905, at ten o'clock, A. M. On the same day, the following Agreed Facts *is* filed:

Agreed Facts.

(Filed April 21, 1905.)

The following are agreed upon as the facts in this case:

The petitioner, Charles Zartarian, formerly a subject of the Sultan of Turkey, became a naturalized citizen of the United States on September 12, 1896, at the Circuit Court of Cook County, in the State of Illinois. That his daughter Mariam, on whose behalf this petition is brought, is a girl between fifteen and sixteen years of age, and was born just prior to the petitioner's leaving Turkey. That in the latter part of the year 1904, the Turkish Government, at the request of the United States Minister at Constantinople, granted permission to the petitioner's wife, minor son and his said daughter Mariam, to emigrate to the United States, it being stipulated in the passport issued to them that they could never return to Turkey. That on March 22nd, 1905, the Hon. G. V. L. Meyer, then United States Ambassador at Rome, Italy, issued a United States passport to your petitioner's said wife and daughter. That said Mariam arrived at Boston from Naples, Italy, on April 18th, 1905, and that on April 18th, 1905, she was found to have trachoma, and was debarred from landing by a board of special inquiry appointed
8 by the United States Commissioner of Immigration for the port of Boston.

DANIEL B. RUGGLES,
Attorney for Petitioner.
WILLIAM H. GARLAND,
Ass't U. S. Attorney for Respondent.

This cause is thereupon, to wit, April 27, 1905, submitted on the pleadings and briefs of the respective parties to the Honorable Francis C. Lowell, Circuit Judge, and on the twenty eighth day of April, A. D. 1905, the decision of the Court is announced, denying petition and the following Decree is entered:

Decree.

April 28, 1905.

LOWELL, *J.:*

On the twenty eighth day of April, A. D. 1905, this cause comes on to be heard and is fully heard by the Court, the Honorable Francis C. Lowell, Circuit Judge, sitting, and it is thereupon ordered, adjudged and decreed that the petition for writ of *habeas corpus* be and the same is hereby denied.

By the Court:

BENJ. H. BRADLEE, *Deputy Clerk.*

On the first day of May, A. D. 1905, the petitioner comes and claims an appeal from the said order or decree of this Court to the Supreme Court of the United States and gives good and sufficient security that he will prosecute his appeal to effect and answer all damages and costs if he fail to make his plea good.

A true record.

Attest:

ALEX. H. TROWBRIDGE, *Clerk.*

9 *Prayer for Appeal.*

(Filed May 1, 1905.)

From the judgment rendered in the above entitled cause, by which the petition for a writ of *habeas corpus* and a writ of certiorari is dismissed, the petitioner, by his attorney of record, makes application for, and gives notice of, an appeal to the Supreme Court of the United States.

JOHN W. RORKE,
Attorney for Petitioner.

Assignment of Errors.

(Filed Aug. 29, 1905.)

Now comes the petitioner in the above entitled cause and assigns the following grounds of error.

First. The Court erred in refusing to rule that upon all the evidence the writ should issue as prayed for.

Second. The Court erred in ruling that Mariam Zartarian was an alien immigrant.

Third. The Court erred in ruling that trachoma was a loathsome or a dangerous contagious disease.

Fourth. The Court erred in refusing to rule that said Mariam Zartarian was to be considered a citizen of the United States in accordance with 2172 Revised Statutes of the United States.

Fifth. The Court erred in refusing to rule that said Mariam Zartarian was restrained of her liberty without due process of law.

By His Attorney, DANIEL B. RUGGLES.

10 (Copy.)

Bond to Party on Appeal.

(Filed and Approved Sept. 12, 1905.)

Know all men by these presents, That we, Charles Zartarian, of Boston, County of Suffolk and Commonwealth of Massachusetts, as principal, The Ætna Indemnity Company, of Hartford, Conn., a corporation duly established under the laws of the State of Con-

necticut, and having a usual place of business at 84 State Street, Boston, Mass., as surety, are held and firmly bound unto United States of America in the full and just sum of two hundred dollars to be paid to the said United States of America; to which payment well and truly to be made we bind ourselves, our Heirs, Executors, and Administrators, jointly and sevarally, by these Presents.

Sealed with our seals, and dated the eleventh day of September in the year of our Lord one thousand nine hundred and five.

Whereas lately at a Circuit Court of the United States in a suit depending in said Court between Charles Zartarian, Petitioner for *Habeas Corpus v.* George B. Billings, United States Comm'r of Immigration decree was rendered against the said Charles Zartarian, Petitioner and the said Charles Zartarian having obtained an Appeal to remove the said cause to the Supreme Court of the United States to reverse the decree in the aforesaid suit, and a citation directed to the said George B. Billings citing and admonishing him to be and appear at a Supreme Court of the United States to be holden at Washington on the second Monday of October next:

Now the condition of the above obligation is such, that if the said Charles Zartarian shall prosecute his said Appeal to effect, and answer all damages and costs, if he fail to make his plea good, then the above obligation to be null and void; otherwise to remain in full force and virtue.

CHARLES ZARTARIAN, [L. S.]
By His Attorney, DANIEL B. RUGGLES.
THE ÆTNA INDEMNITY COMPANY, [L. S.]
By JAMES R. CHANDLER,
Res. Vice-Pres.

Attest: F. S. HAMLIN,
Res. Ass't Sec'y.

Signed, sealed and delivered in presence of
—— ——.

Sept. 12, 1905.

Approved as of May 2, 1905.
FRANCIS C. LOWELL,
U. S. Circuit Judge.

11 *Citation on Appeal.*

UNITED STATES OF AMERICA, *ss:*

[Seal of the Circuit Court, Massachusetts.]

The President of the United States to George B. Billings, United States Commissioner of Immigration at the Port of Boston, Greeting:

You are hereby cited and admonished to be and appear in the Supreme Court of the United States, Washington, D. C., on the* fourteenth day of October next, pursuant to an Appeal duly obtained

from a decree of the† Circuit Court of the United States for the District of Massachusetts wherein Charles Zartarian, of Boston, in the County of Suffolk and Commonwealth of Massachusetts, Petitioner of Writ of *Habeas Corpus*, is appellant and you are appellee, to show cause, if any there be, why the said decree, entered against the said appellant, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable Francis C. Lowell, Judge of the Circuit Court of the United States for the District of Massachusetts this fifteenth day of September, in the year of our Lord one thousand nine hundred and five.

FRANCIS C. LOWELL,
U. S. Circuit Judge.

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*Not exceeding 30 days from the day of signing.
†Name of Court in which the Decree is entered.

12 [Endorsed:] No. 1562, Law Docket.

Acknowledgment of Service on Citation on Appeal.

UNITED STATES OF AMERICA, *District of Massachusetts, ss:*

SEPT. 15, 1905.

Due and sufficient service of the within citation is hereby acknowledged in behalf of George B. Billings, United States Commissioner of Immigration at the port of Boston, appellee.

WILLIAM H. GARLAND,
Ass't U. S. Att'y.

13 *Clerk's Certificate.*

UNITED STATES OF AMERICA, *District of Massachusetts, ss:*

I, Alexander H. Trowbridge, Clerk of the Circuit Court of the United States for the District of Massachusetts, within the First Circuit, certify that the foregoing is a true copy of the record in the cause entitled, No. 1562, Law Docket, Charles Zartarian, Petitioner for Writ of *Habeas Corpus*, in said Circuit Court determined, the Prayer for Appeal and Assignment of Errors and Bond to Party on Appeal, and also the original Citation issued in said cause, with the Acknowledgment of Service thereon.

In testimony whereof, I hereunto set my hand and affix the seal of said Circuit Court, at Boston, in said District, this sixteenth day of September, A. D. 1905.

[Seal of the Circuit Court, Massachusetts.]

ALEX. H. TROWBRIDGE, *Clerk.*

Endorsed on cover: File No. 19,914. Massachusetts C. C. U. S. Term No. 120. Charles Zartarian, appellant, *vs.* George B. Billings, United States commissioner of immigration at the port of Boston. Filed September 29th, 1905. File No. 19,914.